IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 26080 of 2006(D)

PETITIONER:

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1. SMITHA S.,
   ANJALI, MARUR SOUTH,
   ALUMKADAVU, KARUNAGAPPALLY.

2. YAMUNA, W/O.DILEEP KUMAR,
   KIZHAKKEDATH HOUSE, ALAPPAD,
   CHERIAZHIKKAL P.O., KARUNAGAPPALLY.

3. SAUDAMINI, W/O.LATE DHANANJAYAN,
   KIZHAKKEDATH HOUSE, ALAPPAD,
   CHERIAZHIKKAL P.O., KARUNAGAPPALLY.

BY ADV. SRI.A.AHZAR

RESPONDENTS:

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1. STATE OF KERALA,
   REP. BY THE CHIEF SECRETARY,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
   COLLECTORATE, KOLLAM.

3. TAHSILDAR,
   KARUNAGAPPALLY TALUK,
   KARUNAGAPPALLY.

4. THE SECRETARY,
   ALAPPAD PANCHAYATH,
   KARUNAGAPPALLY.

R4 BY ADV. SRI.BIJU M.JOHN
R1 TO 3 BY G.P. SRI.I.V.PROMOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

P1: TRUE COPY OF THE SALE DEED NO.3259 DT.27.11.76.

P2: .DO. NO.1835 DT.28.6.90.

P3: .DO. NO.2082 DT.21.5.64.

P4: TRUE COPY OF REPRESENTATION FILED BY 3RD PETITIONER BEFORE THE HON'BLE CHIEF MINISTER DT.29.9.06.

P5: .DO. BEFORE THE STATE HUMAN RIGHTS COMMISSION DT.29.9.06.

P6: TRUE COPY OF RECEIPT SENDING REPRESENTATIONS DT.30.9.2006.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.26080 of 2006

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Dated this the 8th day of December, 2006.

JUDGMENT

The W.P. is filed challenging proposed acquisition proceedings. Government Pleader submitted that petitioners' land is required for construction of road for public purpose. If the purpose of acquisition of land is for road construction, it is open to the respondents to invoke emergency clause and proceed with acquisition. However, I make it clear that without initiating and completing proper procedure for acquisition, petitioners' property should not be taken over. It is open to the petitioners to approach the second respondent and if reasonable price is offered, to sell the property instead of proceeding with acquisition and getting entangled in litigation.

C.N.RAMACHANDRAN NAIR
Judge

pms